

**UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD  
REGION 13**

<b>INTERNATIONAL UNION OF OPERATING</b>	)	
<b>ENGINEERS LOCAL 150, AFL-CIO,</b>	)	
	)	
<b>And</b>	)	<b>Case Nos. 13-CP-227526;</b>
	)	<b>13-CC-227527;</b>
<b>DONEGAL SERVICES, LLC,</b>	)	<b>13-CC-231597 and</b>
	)	<b>13-CC-233109</b>
<b>And</b>	)	
	)	
<b>ROSS BUILDERS, INC.</b>	)	

**CHARGING PARTYS' MOTION FOR LEAVE TO FILE SUPPLEMENTAL  
AUTHORITY**

The Employers, Donegal Services, LLC (“Donegal”) and Ross Builders, Inc. (“Ross Builders”) by and through their attorney Scott Gore of Laner Muchin, Ltd., hereby files this Motion to for Leave to File Supplemental Authority in the above referenced matter.

Scott A. Gore  
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On July 27, 2020, Respondent filed a Motion to file Supplemental Authority with the Board and on August 3, 2020, the Office of the Executive Secretary of the National Labor Relations Board granted leave to Respondent, International Union Of Operating Engineers Local 150, AFL-CIO (“Local 150”) to file its Supplemental Authority which is the Case of *Orh v International Union Of Operating Engineers Local 150, AFL-CIO*, WL 1639987 (N.D. Ill. Feinerman, J. April 2, 2020). In *Ohr*, in sum, the NLRB sought to temporarily enjoin Local 150 from unlawfully coercing Donegal’s and Ross’s customers and suppliers from doing business with them. The original charging parties, Donegal Services, LLC and Ross Builders, were not a party to the NLRB’s injunction action in *Ohr*. On summary judgment in *Ohr*, Local 150 asserted, among other things, that Donegal and another entity, WillCo Green were joint employers. The NLRB did not contest the assertion and, for purposes of summary judgment, the Court stated, it “must assume the truth of those facts, but does not vouch for them.” *Ohr*, slip op. at p. 2.

In granting this leave to file its supplemental authority the Board correctly noted that it would consider the Case submitted under the principals of *Santa Barbara News-Press*, 357 NLRB 452, 455 fn. 12 (2011), enf. denied on other grounds sub nom. *Ampersand Publishing, Inc. v NLRB*, 702 F.3d 51 (D.C. Cir. 2012). *Santa Barbara News* stands for the proposition that a District Court finding in a Section 10(j) auxiliary proceeding is not later binding on an NLRB unfair labor practice charge ruling.

Donegal Services and Ross Builders now request leave to file additional supplemental authority in the instant case, authority under a case in which Donegal Services and Local 150 are both parties and which addresses the finding of Judge Feinerman in the *Ohr v Local 150* matter. This supplemental authority is offered in order for the Board to have before it all of the Orders to date in matters which may be auxiliary to the instant matter before the Board.

On October 8, 2020, Judge Ronald A. Guzman issued the attached Order in Donegal Services, LLC and Crana Services, LLC v International Union Of Operating Engineers Local 150, AFL-CIO in Case No. 20 C 1990 (N.D. Ill. Guzman, J. October 8, 2020). In *Donegal*, the plaintiffs, Donegal and Crana, in sum, sought damages and other relief against Local 150 for unlawfully coercing their customer and suppliers from doing business with them. Local 150 moved to dismiss the lawsuit arguing, among other things, that the *Ohr* decision was binding on Donegal. The District Court rejected this argument as a ground for dismissal, calling it “conclusory,” noting the elements for *res judicata* and collateral estoppel had not been met, and holding Local 150 had “waive[d]” the argument. *Donegal*, slip op at 4. Because the same principals of *Santa Barbera News* apply to Judge Guzman’s ruling in *Donegal* the undersigned requests that the Board accept the attached Supplemental Authority so that the Board may have all of the current Orders to date on the issue as to whether the display of Rats and Banners may violate Section 8(b)(4) of the Act.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Scott A. Gore". The signature is fluid and cursive, with the first name "Scott" and last name "Gore" being clearly legible.

Scott A. Gore

**CERTIFICATE OF SERVICE**

Scott A. Gore, an attorney, hereby certifies that he caused the **Charging Party's Motion For Leave To File Supplemental Authority** to be served on the parties of record listed below, by electronic filing and email, before the hour of 5:00 p.m. on this 25th day of January, 2021 addressed to:

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